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**FEB 26 2002**

In re Application of	:	
Elliott Schwartz	:	<b>OFFICE OF PETITIONS</b>
Application No. 09/912,636	:	<b>DECISION GRANTING</b>
Filed: July 24, 2001	:	<b>PETITION</b>
Attorney Docket No. 05168.P002	:	

This is a decision on the petition October 1, 2001, requesting that the above-identified application be accorded a filing date of July 24, 2001, rather than the presently accorded date of July 25, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on July 24, 2001 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL627465605US showing an illegible handwritten "date-in" as well as a "SAN JOSE CA WINDOW NO 15 JULY 24 2001 USPS" receipt stamp. The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated July 24, 2001 on the cover page for the application papers.

In view of the USPS receipt stamp of July 24, 2001 appearing on the same Express Mail label, it is concluded that the application was deposited as "Express Mail" with the USPS on July 24, 2001.


The petition is **granted**.

In further reviewing the application file, it is noted that, on December 4, 2001, a request to rescind a previous nonpublication request under 35 USC 122(b)(2)(B)(ii) was submitted. Accordingly, as requested, the nonpublication request has been rescinded.

A corrected filing receipt showing the filing date of the instant application and the projected publication date accompany this decision.

This application is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of July 24, 2001**. Thereafter, the application will be forwarded to Technology Center AU 2153 for examination in due course.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

A handwritten signature in cursive script that reads "Brian Hearn".

Brian Hearn  
Senior Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt